



OCT 26 2000

Mr. John Schuster
Deputy Director
Office of Workforce Development
Ohio Department of Job and Family Services
145 South Front Street - 6th Floor
Columbus, Ohio 43216-1618

Dear Mr. Schuster:

This is in reference to the State's request to carry forward certain Job Training Partnership Act (JTPA) general statutory waivers previously granted to the State under the Secretary's new general waiver authority contained in the Workforce Investment Act (WIA) at section 189(i)(4). The period of the requested waivers is for four program years.

The State's submission, contained in Ohio's 5-year Strategic Plan, consists of four waiver requests, two of which concern family income exclusions, one related to procurement requirements, and one on cost categories and cost limitations, which were extended through Program Year (PY) 1999. As stated in the executed PY 1999 Grant Modification, all JTPA waivers end on June 30, 2000, or the date that the State fully implements its 5-year WIA plan, whichever comes first. Thus, at this time, there are no JTPA waivers to carry forward. Additionally, with the exception of waiver request #4, related to the administrative cost limitation, which we have conditionally approved, waivers are not necessary to achieve the results desired by the State. Our disposition of the discrete four waiver requests is set forth below.

Waiver #'s 1 and 2. Family Income Exclusions The State's request to continue the JTPA waivers granted to permit the exclusion of up to 50 percent Social Security and Old Age Survivors' Insurance benefit payments and Social Security Disability Income (SSDI) is not needed. There is no definition of "family income" under WIA as there was under the Job Training Partnership Act. Neither the Act nor regulations define the term "family income" for the purposes of WIA. We are not going to establish such a definition. The State may, however, establish its own definition of "family income" for the purposes of determining self-sufficiency, priority of services, and youth eligibility. The only qualifiers are that the State's definition must otherwise be consistent with the statutory definitions for low income individuals, at WIA section 101(25), must be reasonable and may not exclude wages, that is, income earned where an employer/employee relationship exists, as defined by the Fair Labor Standards Act (FLSA). The State may develop its own definition, or it may adopt the Department of Health and Human Services (HHS) income guidelines for poverty level as part of its definition. The State may also adopt the family income definition used for JTPA, in



whole or in part, if it so chooses. In doing so, these become the State's guidelines, and not Federal requirements, and a waiver is not necessary.

Waiver # 3. Procurement Requirements The JTPA waiver granted to Ohio permitted the use of State procurement procedures, in lieu of the JTPA procurement requirements, to the extent that they were consistent with the requirements of OMB Circular A-102, and permitted local SDA's to use local procurement rules, to the extent that they were consistent with the State rules and OMB Circular A-102. Under WIA, States are now required to follow the Common Rule "Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments," as codified in 29 CFR Part 97. The Common Rule provides that States follow their own procurement rules to the extent that they are consistent with the Common Rule, and local areas follow their procurement rules to the extent they are consistent with the Common Rule and the State rules. Accordingly, a waiver is not necessary.

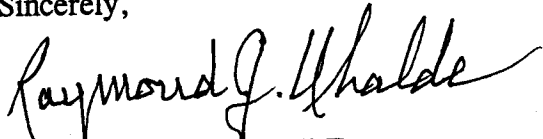
Waiver # 4. Cost Limitations The JTPA cost limitations waiver granted to the State included a waiver to reduce the JTPA cost categories from three to two – Administration and Program. Clearly, this waiver is no longer needed since the WIA legislation addressed the issue which necessitated the need for a waiver under JTPA. The WIA legislation only contains two cost categories Administration and Program. Accordingly, no waiver is needed.

The State's request to waive the local administrative cost limitation is approved in part, as described below. The State requested a waiver, to apply to all local workforce investment areas, of the 10% local administrative cost limitation set forth at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2). We are not approving a statewide waiver of the local administrative cost limitation because we do not believe that the limitation generally impedes the ability of local areas to implement their local plans. The definition of administrative costs, described in 20 CFR 667.220, was developed through extensive consultation with our federal, state and local partners, and after extensive field-testing. We believe that this provision presents a reasonable and easy-to-use definition, and expect that experience will show that by applying this definition, most local areas will be able to provide high-quality services while still meeting the 10% administrative cost limitation. However, we acknowledge that circumstances may exist in some local areas which would prevent the area from meeting the 10% limitation despite its best efforts to do so. Therefore, we are providing the Governor authority to apply a waiver of the 10% administrative cost limitation to those local areas that demonstrate a need for the waiver. This approval is granted on condition that the Governor develop standards or criteria for determining whether special circumstances exist to indicate that a particular local workforce investment area will be unable to meet the 10% administrative cost limitation in the absence of the waiver. The Governor must submit the standards or criteria to the Grant Officer for inclusion in the grant file and must notify the Grant Officer of any waivers granted.

The appropriate grant documents including the approved waiver of the 10% local-level administration limit will be forwarded to you under separate cover. Please handle according to the instructions included with the document and return to the Grant Officer.

We appreciate the State's views and look forward to working with the State as we proceed to fully implement the new program. We are prepared to entertain other State-level waiver requests that Ohio may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,

A handwritten signature in cursive script, reading "Raymond J. Uhalde". The signature is written in dark ink and is positioned above the printed name.

RAYMOND J. UHALDE
Deputy Assistant Secretary